



CITY OF NEWPORT NEWS

PERSONNEL ADMINISTRATIVE MANUAL

Effective Date: 09/01/02

SECTION	SUBJECT
1006	WORKPLACE HARASSMENT POLICY

I. POLICY

It is the policy of the City of Newport News that all employees will deal with the public and with other employees with courtesy, respect, professionalism and tact. The City is committed to providing all employees with a work environment free from discrimination and harassment based on race, gender, religion, national origin, age, color and disability status. The City will also not tolerate harassment of those employees who oppose harassment or prohibited discrimination, or who participate in this complaint process.

All forms of discrimination and harassment are prohibited by City policy. Managers at all levels are responsible for monitoring employee behavior in the workplace and for taking appropriate action to identify and eliminate discriminatory, harassing, and inappropriate behavior before it rises to the level of a violation of federal law.

It is the policy of the City to promptly and appropriately investigate complaints made under this policy and actions which may constitute discrimination and harassment about which it has knowledge. It is the policy of the City to take prompt and appropriate corrective action when indicated.

II. WORKPLACE HARASSMENT, IMPROPER AND INAPPROPRIATE CONDUCT

Workplace harassment is a form of discrimination which may occur when an employee experiences inappropriate or improper behavior based on race, gender (whether or not of a sexual nature), religion, national origin, age, color or disability status which creates a hostile work environment. Such also arises when an employee receives a job-related benefit or detriment which is based upon the employee's reaction to a supervisor's unwelcome sexual behavior.

Inappropriate or improper behavior may come from supervisors, co-workers, subordinates and third parties such as customers and vendors. Inappropriate or improper behavior may come from a person from the same group or category (race, gender, religion, national origin, age, color or disability status) as the employee. Usually, it is directed toward a person of another group or category.

This policy addresses improper and inappropriate conduct based on race, gender, religion, national origin, age, color, or disability status. Not all improper and inappropriate conduct such as that described or referred to in this policy constitutes unlawful harassment or discrimination. However, regardless of whether such conduct is ultimately determined to rise to the level of unlawful conduct, the City will review the circumstances and will take appropriate disciplinary or other corrective action as necessary.

AMENDS/SUPERSEDES
SECTION 1006, 4/15/99 and SECTION 1407, 05/01/93

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III. IMPROPER AND INAPPROPRIATE BEHAVIOR

A. Examples of Improper and Inappropriate Behavior

Examples of improper and inappropriate behavior are listed below. This is not an exhaustive list of behavior which may constitute misconduct. Such behaviors are specifically prohibited by City policies and engaging in such will result in appropriate personnel action.

1. Slurs, epithets, humiliating or derogatory jokes or comments concerning race, gender, religion, national origin, age, color or disability status. This may include comments, postings, e-mail, gestures and other written or non-written materials or actions.
2. Threats of physical violence or harm, or other forms of abuse or intimidation based on race, gender, religion, national origin, age, color or disability status.
3. Off-color, sexually or racially suggestive actions, stares, questions, personal accounts, pictures, pin-ups, e-mail and other written, non-written, spoken, or visual materials and actions.
4. Mimicking, teasing, or criticizing an employee based on race, gender, religion, national original, age, color or disability status.
5. Sexual advances, requests for sexual favors, repeated requests for dates after the recipient has indicated no interest, and similar behavior.
6. Sexually aggressive conduct including physically touching, stroking, kissing or grabbing without the person's consent; any type of intimate touching or grabbing, or motions or gestures indicating or suggesting sexually aggressive or intimate touching, and similar actions. This includes any manner of obscene movements or gestures.
7. For supervisors, making submission to sexual advances, requests for sexual favors and participation in other conduct of a sexual nature explicitly or implicitly a term or condition of employment. Taking any type of adverse or favorable job action based on submission to, or rejection of, such conduct is also prohibited.

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B. Hostile Work Environment

A hostile work environment is one in which a reasonable person would find hostile, intimidating or abusive based on race, gender, religion, national origin, age, color or disability status. Hostile work environment is determined by considering the totality of the circumstances of conduct such as that listed above, including frequency, severity, pervasiveness, unwelcomeness, whether the conduct is humiliating or physically abusive, and whether the conduct unreasonably interferes with the employee's work performance. Improper and inappropriate behavior regardless of whether such rises to the level of discrimination or harassment will be addressed within appropriate City and departmental policies.

Generally, interactions between two or more employees based on other factors do not constitute hostile work environment in the context of this policy, although misconduct actionable under other policies may have occurred.

Generally, actions taken by supervisors in the normal course of discharging their responsibilities for supervising and managing do not constitute a hostile work environment unless other factors described in this policy support such a finding.

C. Sexual Harassment

Sexual harassment may occur based upon a hostile work environment as described above. Another form of sexual harassment, known as quid pro quo harassment, may occur when submission to unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature is made explicitly or implicitly a term or condition of employment and the submission to or rejection of such conduct culminates in a tangible employment action. Tangible employment actions include but are not limited to, hiring and firing, demotion, suspension, some transfers, promotion and failure to promote, compensation decisions, and decisions causing a significant change in benefits.

IV. RESPONSIBILITIES OF SUPERVISORS AND MANAGERS

- A. Supervisors and managers are responsible for the appropriate implementation and administration of this policy.
- B. Supervisors and managers are responsible for taking action to ensure a work environment whereby their employees are free of improper and inappropriate conduct of the types described in this policy. Supervisors and managers are expected to set the example for appropriate behavior.

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- C. Supervisors and managers at all levels are responsible for monitoring employee behavior in the workplace they supervise. In the event a supervisor or manager observes inappropriate behavior, or is informed of such behavior, or receives a complaint of discrimination, harassment, or improper behavior, the manager is responsible for taking immediate steps to prevent such behavior from continuing. Furthermore, the manager is responsible for conducting or having conducted an investigation appropriate to the circumstances and for taking appropriate corrective action.
- D. By way of guidance, should the manager observe or be informed of inappropriate behavior which may, in the manager's judgment, be remedied simply by counseling the employee(s) involved, then the manager should do so and document the action taken. Should the behavior continue, or should the manager become aware of potentially more serious discrimination or harassment, or should the manager receive a complaint of discrimination or possible harassment, then the manager shall immediately contact the department head through the appropriate channels. The department head, or designated representative, shall promptly consult with the Director of Personnel, or designated representative, to determine the appropriate course of action, including the nature and scope of any investigation.
- E. Supervisors are expected to observe how employees are treated by employees, vendors, and others in the work setting. Supervisors are also expected to observe how employees deal with the public, clients, vendors and other non-employees in the work setting to ensure appropriate conduct.

V. EMPLOYEE COMPLAINT PROCEDURE

Any employee who feels that he or she has been a recipient of inappropriate or improper conduct as described in this policy is responsible for taking action in a timely manner to avail themselves of preventive and corrective activities including utilization of the City's complaint procedure. Employees should take one or more of the following actions.

- A. The employee may tell the person committing the behavior that it is unwelcome or offensive and request that it be stopped. However, the employee is not required to do this before discussing the matter with departmental management or filing a complaint with the Personnel Department.
- B. The employee may discuss the matter with his/her supervisor or department head as well as the supervisor or department head of the offending person.

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- C. If the employee is uncomfortable discussing the matter with the person committing the behavior and with departmental management, or if the behavior continues, or if the employee wishes to make a formal complaint, or if the employee believes he/she has experienced any tangible personnel action related to the situation, then the employee shall report the situation directly to the Personnel Department.
- D. The complaint investigation procedure is an administrative process and has no connection with any other City or departmental appeals or grievance procedures. Individuals are encouraged to utilize this procedure prior to seeking complaint resolution through other means.

VI. CONFIDENTIALITY

All complaints shall be handled as confidentially as possible, except to the extent necessary to investigate the matter, take appropriate personnel action, or to defend the City and its officers and employees.

VII. NON-RETALIATION

No retaliation or adverse treatment may be taken against an employee as a result of the employee making a complaint, providing information, or participating in any investigation of a complaint. Acts of retaliation shall be reported immediately to the Personnel Department and shall be promptly investigated. Appropriate action will be taken. Moreover, harassment of those who make a complaint or who participate in any investigation should also be reported, and such shall be investigated, if appropriate.

VIII. COMPLAINT INVESTIGATION PROCEDURE

The Personnel Department shall conduct investigations of formal complaints of discrimination or harassment. The Personnel Department will also conduct investigations upon the requests of departmental management. Additionally, the Personnel Department may conduct investigations on its own volition.

The following general procedure applies to investigations of formal complaints:

- A. The complaint should be submitted in writing. Forms for this purpose are available in the Personnel Department or the complaint may be submitted as a memorandum or letter. The Personnel Department and departmental management will also act on verbal complaints. Whenever possible, such shall be immediately reduced to writing and signed by the person making the complaint.

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- B. The Organizational Diversity Coordinator for the City has primary responsibility for conducting investigations although other Personnel staff members or other individuals may be assigned responsibility at the discretion of the Director of Personnel.
- C. The person(s) designated to conduct the investigation will interview the complainant(s).
- D. The person(s) conducting the investigation will discuss the complaint which is the basis for the investigation with the department head(s) or representative(s) of the department(s) involved as appropriate.
- E. The person(s) alleged to have committed the action(s) which is the basis for the complaint will be interviewed.
- F. The investigation will be conducted as necessary to appropriately investigate the allegations. This may include interviewing witnesses and other persons who may have knowledge relevant to the complaint and otherwise obtaining additional information. The person(s) conducting the investigation may request that specific information relevant to the complaint be made available.
- G. The Director of Personnel and the person(s) conducting the investigation will review the facts of the case and will present findings to the department head or other City officials as appropriate.
- H. When there is an indication that misconduct may have occurred, a detailed analysis of the findings and any recommendations for corrective action shall be presented to the appropriate department head(s) or other persons.
- I. At any time during the investigation, the complainant and/or the accused employee may be temporarily transferred to another work site or may be placed on administrative leave. These are not punitive actions and do not indicate any preliminary assessment of guilt. These are simply actions taken to separate the affected employees, when appropriate, and to facilitate a prompt investigation of the complaint.
- J. At any time during the course of addressing a complaint, the Director of Personnel may take appropriate action to resolve the issues.

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- K. At the conclusion of the investigation, the appropriate Personnel staff will meet with the employee to review the findings.

IX. **PERSONNEL ACTION**

If an employee is found to have engaged in inappropriate or improper conduct in violation of this policy or in violation of the Standards of Conduct, the employee is subject to appropriate disciplinary action based on all the circumstances of the situation. Such action may range from counseling to disciplinary action up to and including dismissal.

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